Remarks

The Office Action dated July 28, 2005 has been received and its contents carefully noted. The following comments are offered on the cited prior art and it is trusted that they will be persuasive in bringing about a favorable reconsideration and allowance of the existing claims.

Drawings

Drawings have been submitted as formal drawings and there have been no objections thereto.

Claim Rejections 35 U.S.C. §103

Claims 1-16 are pending in the application and of these the Examiner has rejected claims 1-5 and 7-16 under 35 U.S.C. §103(a) as being unpatentable over the Robertson et al. U.S. Patent Publication No. 2002/0160807 in view of Kishi et al. U.S. Patent No. 5,635,925 for the reasoning set forth in paragraph 2, pages 2-8 of the Office Action. Claim 6 is apparently rejected under 35 U.S.C. §103(a) as being unpatentable over the Robertson et al. patent publication for the reasoning set forth in paragraph 3, pages 8 and 9 of the Office Action. It appears the heading for paragraph 3 is incorrectly stated and should be limited to claim 6.

The Robertson publication appears to teach that an emergency call may be placed by holding down simultaneously a number of function keys for a period of time regardless of the power state of the mobile phone. See paragraphs 0026, 0027, 0028, 0029, 0030 and 0031. According to the teachings of Robertson at paragraph 0024, one skilled in the art would not look to the Robertson reference for teaching to lock or unlock the screen since the intent of the Robertson application is to avoid using the screen for placing emergency calls.

> "There are occasions in which the user may have difficulty navigating back to a dialing application such that a wireless call can be made. For example, in cold weather conditions, the LCD screen can be slow to update, hampering the user's efforts to navigate back to the dialer application, or to select numbers or icons from display 114. In cold conditions, the LCD screen can lose functionality, preventing the user from placing a call using display 114 entirely. LCD touch screen functionality can also be lost when handheld computer 100 is extremely hot."

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Therefore, the screen in the Robertson device would be inoperative and that is the reason Robertson teaches simultaneous hold down of a number of function keys for period of time. There is no suggestion, disclosure or teaching in Robertson to suggest that the screen in a locked state can be pressed to bring up a dialer on the screen to make an emergency call.

Applicants respectfully submit there is no teaching, disclosure or suggestion in Robertson that are relevant to locking or unlocking a screen in a mobile device as disclosed and claimed in the present invention for at least the reason that pressing the surface of the locked touch screen is required to placed an emergency call from the mobile phone touch screen locked state.

The Kishi reference appears to deal with a GPS device of some type in which a telephone call may be placed when the "telephone number" icon on the screen is touched. The Examiner does not provide an explanation as to how the Robertson and Kishi references could be combined merely stating that it would be obvious to one skilled in the art to make such a combination. Based on the teachings of Robertson particularly at paragraph 0024, one skilled in the art would not look to Robertson for screen contact as taught by Kishi to dial a telephone number. Even if such a combination could be made, Kishi does not cure the deficiencies of Robertson.

Furthermore, Kishi does not teach, suggest or disclose a screen in a locked state much less that the screen in the locked state can be pressed to bring up a dialer on the screen to make the emergency call.

In sum, it is seen the Examiner attempts to combine the inoperative device of Robertson with the teachings of Kishi which also fails to disclose, suggest or teach Applicants' invention as disclosed and claimed.

In addition to the above, the various applied prior art references offer no teaching which would prompt the artisan of ordinary skill to make the combinations/modifications proposed by the Examiner. In fact, it is only when the Examiner looks to applicants' own disclosure that he can allege obviousness by choosing bits and pieces of the prior art references and then combining these bits and pieces together based on alleged obviousness. Without a teaching (other than applicants' own teaching) to prompt the combinations/modifications, the rejections are merely improper hindsight reconstruction of applicants' own invention using applicants' own disclosure. The Court of Appeals for the Federal Circuit has steadfastly criticized such modification. "The mere fact that the prior art could be so modified would not have made the modification obvious unless the prior art suggested the desirability of the modification." In re

Gordon, 733 F.2d 900, 902, 221 USPQ 1125, 1127 (Fed. Cir. 1984). See also, e.g., In re Laskowski, 871 F.2d 115, 10 USPQ 2d 1397 (Fed. Cir. 1989); Interconnect Planning Corp. v. Feil, 774 F.2d 1132, 1143, 227 USPQ 543, 551 (Fed. Cir. 1985); In re Grabiak, 769 F.2d 729, 731, 226 USPQ 870, 872 (Fed. Cir. 1985); In re Sernaker, 701 F.2d 989, 994, 217 USPQ 1, 5 (Fed. Cir. 1983).

Accordingly, it is submitted that the present invention as claimed is readily distinguishable from the prior art references for the reasons indicated. Applicants' invention is not disclosed by any of the prior art and there is no fair basis for alleging that Applicant's invention is obvious in regard to such prior art. If the invention was obvious, it would have been adopted before in view of its advantages.

Conclusion

In view of the foregoing, Applicants respectfully submit that all the claims are allowable and early favorable action is earnestly solicited. The Examiner is invited to call Applicants' attorney if any questions remain following review of this response.

Respectfully submitted,

Dated: October 13, 2005

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